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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 027030,702 | 02/25/98 | MACNEIL | 8527-002 |

OM21/0317
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EXAMINER

GR1EB,W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3711

DATE MAILED: 03/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/090,702

Applicant(s)

MACN/EL

Examiner

GR1EB

Group Art Unit

3711

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 3711

The offer to surrender the original Letters Patent is acknowledged.

With regard to the Notice of Draftsperson's Patent drawing Review: Alternatively, applicant may request that the drawing from Patent No. 5,494,297, already approved, be transferred to the present application.

This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

The following is a statement of 37 CFR 3.73, which became effective on September 4, 1992, and was revised to its present form in 1997:

Art Unit: 3711

37 CFR 3.73 Establishing right of assignee to prosecute.

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application unless there is an assignment.

(b) When an assignee seeks to take action in a matter before the Office with respect to a patent application, trademark application, patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Commissioner. Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee.

Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

Enclosed with this Office action is a sample Certificate under 37 CFR 3.73(b) which an assignee may use in order to ensure compliance with the Rule. Part A of the Certificate is used when there is a single assignment from the inventor(s). Part B of the Certificate is used when there is a chain of title. The "Copies of assignments..." box should be checked when the assignment document(s) (set forth in part A or part B) is/are not recorded in the Office, and a copy of the assignment document(s) is/are attached. When the "Copies of assignments..." box is checked, either the part A box or the part B box, as appropriate, must be checked, and the "Reel____, Frame____" entries should be left blank. If the part B box is checked, and copies of assignments are not included, the "From:_____ To:_____" blank(s) must be filled in. This certificate should be used the first time an assignee seeks to take action in an application under 37 CFR 3.73(b).

09/039702

Page 4

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant: _____

Application No.: _____ Filed: _____

Entitled: _____

_____, a _____,
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

- 1. ☐ the assignee of the entire right, title, and interest; or
- 2. ☐ an assignee of an undivided part interest

in the patent application identified above by virtue of either:

A. [] An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. [] A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

- 1. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
- 2. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
- 3. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

[] Additional documents in the chain of title are listed on a supplemental sheet.

[] Copies of assignments or other documents in the chain of title are attached.

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

Date Signature

Typed or printed name

Title

Art Unit: 3711

Claims 1-16 are rejected under 35 USC 251 based upon an insufficient reissue declaration.

The declaration states that at least one error in the original patent was the failure "to claim a stick head offset as shown and described".

The original patent application did not show or describe an offset stick head.

Also, the declaration does not mention the deletion in claim 12, lines 3-5 of the recitation "said first sidewall being substantially straight in the longitudinal direction at least along an upper edge thereof".

Claims 1-16 are further rejected under 35 U.S.C. 251 as being based upon new matter added to the patent for which reissue is sought. The added material which is not supported by the prior patent is as follows: Page 3, lines 3-4; page 10, lines 8-9; claim 1, line 6; claim 12, lines 6-7.

The disclosure in the original patent does not mention that "the end of the lacrosse head is below that of the throat" (now recited on page 3, lines 3-4), that the "mouth portion is thus below the shank end portion 62 and the central axis 66 of the head" (now recited on page 10, lines 8-9), that "said mouth being below the central longitudinal axis of the frame" (now recited in claim 1,

Art Unit: 3711

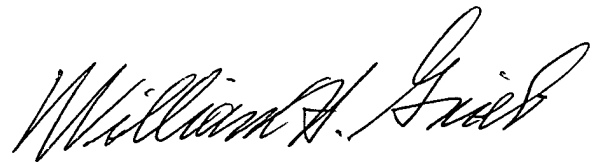
line 6), or that "said mouth portion being below said central longitudinal axis" (now recited in claim 12, lines 6-7).

Claims 1-4 and 12-16 are still further rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As noted above, the subject matter added to claim 1, line 6 and claim 12, lines 6-7 was not described in the disclosure of the original patent application.

Claims 2-4 and 13-16 inherit the new matter of claims 1 and 12.

Any inquiry concerning this communication should be directed to William Grieb at telephone number (703) 308-3549.

A handwritten signature in black ink, reading "William H. Grieb". The signature is written in a cursive, flowing style with a large, prominent 'W' and 'G'.

William H. Grieb
Primary Examiner